

# STATE OF NEBRASKA

## Department of Banking & Finance

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### SUPPLEMENT TO FDIC APPLICATION FOR CONSENT TO EXERCISE TRUST POWERS BY A STATE CHARTERED BANK

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#### Regulatory Requirements

This application is used by a state bank to request a charter/authority from the Director of the Nebraska Department of Banking & Finance to transact a trust company business in a trust department of said bank. This application is made to the Nebraska Department of Banking and Finance pursuant to Sections 8-159 to 8-162 of the Nebraska Banking Act and Sections 8-201 to 8-235 of the Nebraska Trust Company Act. Activities constituting trust powers are governed by state statute, regulation, or policy.

The Department will give notice of the application by publishing in a legal newspaper for three weeks and set a public hearing date. The applicant must pay the costs of publication and the newspaper will be instructed to bill the applicant accordingly.

A public hearing shall be set and the date for such hearing on the application shall be not more than ninety days after the filing date nor less than thirty days after the last publication notice. The hearing will be conducted pursuant to the Department's Rules of Procedure for Public Hearings, 49 NAC 1, 2, and 3.

An application fee of \$1,000 must accompany the application to the Department of Banking & Finance.

#### Instructions

Complete the cover page of the FDIC application and provide a response to each of the eight (8) items listed in the Specific Instructions section of the FDIC application. All applicants are to respond to the following additional items when submitting an application to the Department of Banking & Finance.

2. **Trust Powers.** Indicate the status of any applications filed with the federal authority regarding the granting of, or consent to exercise trust powers. Provide a copy of Articles of Incorporation dealing with trust powers. Care should be taken in selecting trust powers to insure that trust officer(s) and members of the trust committee have experience and qualifications required for the trust powers being requested.
9. **Need for Trust Services.** Provide a statement with supporting information/documentation that this application will promote the public convenience and advantage, i.e. meet a need or demand for trust services in the community. Include sufficient detail for the Department to make a determination.
10. **Independence from Corporate Trustee.** It is believed that trust decisional functions should be exercised independently by the bank and not in conjunction with any other corporate trustee. Furnish a statement to this effect in your cover letter when you file the application.

The applicant is responsible for presenting and documenting information sufficient to process the application. All questions must be answered with complete and accurate information that is subject to verification. If the answer is "none," "not applicable," or "unknown," so state. Answers of "unknown" should be explained.

Schedules or inserts may be attached to this application whenever the space provided is insufficient. Such attached schedules or inserts are considered a part of this application and should be on paper the same size as this page. The informational questions in the application are not intended to limit the applicant's presentation. You may provide any additional information deemed appropriate to a complete understanding of the proposal. The Department may request additional necessary information.

**Note:** If Full Trust Powers is checked, all powers listed in the Schedule of Limited Trust Powers may be exercised if the application is approved. If Limited Trust powers is checked, **ONLY THE POWERS CHECKED** in the Schedule of Limited Trust Powers may be exercised if the application for consent is approved.

Attached is Resolution of the Board of Directors of Applicant Bank, which should be adopted at a duly called meeting. The resolution authorizes the appropriate officers to submit an application to the Department of Banking & Finance and the Federal Deposit Insurance Corporation for consent to exercise trust powers, adopts the Statement of Principles of Trust Department Management and documents the Bank's commitment to certain other expectations in the operations of a trust department. This Resolution should be adopted, completed, and submitted with the application.

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An original signed completed application and two copies should be submitted to the Department of Banking & Finance with a copy simultaneously submitted to the Regional Director of the Federal Deposit Insurance Corporation Region in which the applicant is located.

The application will be accepted for filing when substantially complete.

If any information initially furnished in the application changes materially during the processing of the application, such changes should be communicated promptly to the Department.

Requests for clarification as to what information is necessary to complete this application should be directed to the Nebraska Department of Banking & Finance and to the Regional Director of the Federal Deposit Insurance Corporation for the Region in which the applicant is located.

#### **Confidentiality**

Under Nebraska law, an application for a trust charter requires a public hearing. Any interested party who has filed a formal protest/objection may appear at the public hearing, make a statement, present evidence, examine exhibits, and examine witnesses in compliance with Nebraska Department of Banking & Finance rules for hearing procedures. This application will be an exhibit introduced at the hearing and will be subject to examination in its entirety, by all interested parties. As a policy matter, the Department of Banking & Finance treats individuals' financial statements filed as part of the application, if any, as confidential information and not subject to examination. Any interested person may also appear at the hearing and make a statement.

In general, requests for confidential treatment of specific portions of the application must be in writing and must be submitted concurrently with the application. The request should specifically demonstrate the harm (e.g., to its competitive position, invasion of privacy) that would result from public release of information.

Information for which confidential treatment is requested should be (1) specifically identified in the public portion of the application (by reference to the confidential section), (2) separately bound, and (3) labeled "Confidential." The Applicant should follow the same procedure regarding a request for confidential treatment with regard to the subsequent filing of supplemental information to the application.

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The following is intended to assist you in meeting the Department's requirements prior to the issuance of trust powers/trust charter. This list is provided for your convenience and may not be all inclusive.

Legal Citation	Requirements of Statute/Rule - Description	Cost(s)
8-159, 8-160	A specific charter/authority to conduct a trust business is required.	
8-160, 8-201	The Director of the Department of Banking is responsible for issuing charters for the operation of a trust business either by a bank or trust companies.	
8-161	Requires banks to submit an application to the Department for an amendment to its charter to operate a trust department. Application is an original and 2 copies.	
8-162	Requires that a trust department be operated separate and apart from every other department of the bank.	
8-602(10)(d)	Requires an application fee of \$1,000.	\$1,000
8-602(2)	Requires collection of a \$50 fee for filing and examining amendments to articles of incorporation. This is likely required because the bank's original articles of incorporation did not authorize trust powers.	\$50
49 NAC 2	Requires publication of a notice for 3 weeks in a legal newspaper in county where trust charter will be located. The Department will arrange for publication of the notice. Applicant will billed by the newspaper.	\$
49 NAC 3	Hearing date is scheduled: Not more than 90 days after the application is accepted for filing and not less than 30 days after the last publication of notice, i.e. 51 <sup>st</sup> day.	
49 NAC 1,2,3	Hearing is held on the application. Hearing process is governed by the Department's Rules on Hearing Procedures (Title 49 of NAC).	
8-115.01	Court reporter expense (transcript of hearing). Cost listed is an estimate.	\$200
<b>POST APPROVAL PROCEDURES</b>		
8-602(3)	Requires collection of trust charter fee of \$1.50 per each \$1,000 of authorized capital. Example: \$1,600,000 capital /\$1,000 = \$1,600 x \$1.50 = \$2,400.	
8-209 & 210	Requires securities w/par value of \$100,000 be pledged with the Department.	
8-602(12)	Requires collection of a safekeeping fee for the securities that are required to be pledged with the Department under Section 8-209/210. Securities are required to have \$100,000 par value. The fee is \$1.50 per \$1,000 par value, equaling \$150.00 (minimum fee).	\$150
8-218	Department is authorized to examine the trust department as often as deemed necessary.	

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#### RESOLUTION OF BOARD OF DIRECTORS OF APPLICANT BANK

The Board of Directors of the Applicant Bank at a meeting duly called and held on \_\_\_\_\_  
Adopted the following Resolution:

“WHEREAS, it is the sense of this meeting that application should be made on behalf of this Bank to the Nebraska Department of Banking and Finance and to the Federal Deposit Insurance Corporation for written consent to exercise trust powers in accordance with the provisions of State law and the Federal Deposit Insurance Act.

NOW, THEREFORE, IT IS RESOLVED, That the President or Vice President and the Cashier or Secretary of this Bank are hereby authorized and directed to make application on behalf of the Bank to the Nebraska Department of Banking and Finance and to the Federal Deposit Insurance Corporation to exercise trust powers and to submit in connection therewith information on the several factors enumerated in State and Federal statutes for the purpose of inducing the Nebraska Department of Banking and Finance and the Board of Directors of the Federal Deposit Insurance Corporation to grant written consent to exercise trust powers as indicated in this Resolution;

FURTHER RESOLVED, That the Statement of Principles of Trust Department Management is hereby adopted and that the exercise of any fiduciary powers granted will be in conformance with such principles, except where they may conflict with any State law or regulation;

IT IS FURTHER RESOLVED, That the Bank shall:

Provide such capital as the Director may require for the establishment of a Trust Department.

Provide for operation of Trust Department separate and apart from every other department of the bank with trust assets separated from all bank assets, and the assets of each trust separated from the assets of every other trust account.

Maintain a separate set of books and records for the Trust Department in sufficient detail to show, without question, each Trust Department activity.”

The above Resolution has not been rescinded or modified and has been duly entered into the minutes book of the Applicant Bank. Application is made, hereby.

Name and Location of Applicant Bank	
Signature of President or Vice President	Date
Attest (Cashier or Secretary)	Date